

REMARKS

Claims 1-3 are pending in this application, with claim 1 being independent. For the reasons set forth below, Applicants respectfully submit that all pending claims are patentable over the cited prior art.

Claim Rejections – 35 U.S.C. § 103

Claims 1-3 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Japanese Patent Number 02177582 (“Motomiya”) and further in view of Japanese Patent Number 09266342 (“Akagi”). Applicants traverse this rejection because Motomiya and Akagi, either alone or in combination, fail to describe or suggest a gas laser oscillator that includes, among other features, a clogged laying pipe judge part judging the pipe of the sub ejection apparatus to be clogged when the detected amount of the laser gas is smaller than a predetermined value, wherein the controller compares the amount of the laser gas which is detected at a time the valve of the main ejection apparatus is closed, with a predetermined value, as recited in claim 1.

The Office Action concedes that Motomiya fails to describe this feature. *See e.g.*, Office Action at page 4, line 4 to page 5, line 5. However, the Office Action asserts that Akagi provides such teaching. Applicants disagree.

Akagi describes a gas laser oscillator that includes a lead valve (17). Akagi at Abstract. With the operation of the gas laser oscillator, the lead valve (17) may gradually get clogged, thereby causing a process failure. *Id.* To automatically inform an operator of the process failure, Akagi describes comparing, via a comparing equipment (23), the actual open/close duty value of the gas exhaust value (16) calculated by a calculator (21) with a set open/close duty value decided by an open/close data setting equipment (2), and when the actual open/close duty value

becomes equal to or higher than the set value, a display means (24) operates to automatically inform the operator of a condition in which the gas laser oscillator causes process failure. *Id.*

As such, Akagi also does not describe or suggest a gas laser oscillator that includes, among other features, a clogged laying pipe judge part judging the pipe of the sub ejection apparatus to be clogged when the detected amount of the laser gas is smaller than a predetermined value, wherein the controller compares the amount of the laser gas which is detected at a time the valve of the main ejection apparatus is closed, with a predetermined value, as recited in claim 1. That is, even if it is assumed for the sake of argument that the comparing equipment (23) corresponds to the clogged laying pipe judge part recited in claim 1, Akagi still does not describe that the comparing equipment (23) determines the alleged lead valve (17) to be clogged when the detected amount of the laser gas is smaller than a predetermined value. And, it certainly does not describe the controller compares the amount of the laser gas which is detected at a time the valve of the main ejection apparatus is closed, with a predetermined value, as recited in claim 1.

For at least the foregoing reasons, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 1.

Dependent Claims

Under Federal Circuit guidelines, a dependent claim is nonobvious if the independent claim upon which it depends is allowable because all the limitations of the independent claim are contained in the dependent claims, *Hartness International Inc. v. Simplimatic Engineering Co.*, 819 F.2d at 1100, 1108 (Fed. Cir. 1987). Accordingly, as claim 1 is patentable for the reasons set forth above, it is respectfully submitted that all claims dependent thereon are also patentable.

Based on the foregoing, it is respectfully submitted that all pending claims are patentable over the cited prior art. Accordingly, it is respectfully requested that the rejection under the §§ 102 and 103 be withdrawn.

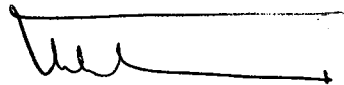
Conclusion

Having fully responded to all matters raised in the Office Action, Applicants submit that all claims are in condition for allowance, an indication for which is respectfully solicited. If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is requested to call Applicants' attorney at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP



Babak Akhlaghi
Limited Recognition No. L0250

600 13th Street, N.W.
Washington, DC 20005-3096
600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000 BA:MaM
Facsimile: 202.756.8087
Date: April 6, 2009

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as our correspondence address.